THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 12204 OF 2006

BETWEEN:

B.Rudraiah son of Late Anand

…Petitioner

vs.

The Government of A.P. rep. by its Principal Secretary, Revenue Department and four others.

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 12204 OF 2006

ORAL ORDER

There are no merits in this writ petition moved for admission.

The petitioner's application for recognition as a landless poor person for deriving the benefits under Section.82 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act,1987 (for short "the Act") has been rejected by the Assistant Commissioner, Endowments, Rajahmundry by the order dated.28-05-2005 in M.A.No.527 of 2005, on a finding of fact that the petitioner is cultivating Ac.2.48

cents of wet land belonging to Sri Someswara Swamy Temple, Nalluru, East Godavari District. Aggrieved thereby the petitioner preferred an appeal to the Regional Joint Commissioner and A.P.146 of 2005 was dismissed by the order dated.10-08-2005. The appellant authority rightly concluded that the petitioner was not a landless poor person.

Sri M.Srinivasa Rao the learned counsel for the petitioner would contend that the primary and appellate orders are based on a misconception of the statutory position. The contention, in substance, is that in computing the land of an applicant for recognition as a landless poor person for deriving the benefits under Section.82 of the Act, lands of an Endowment or Charitable institution which a person is cultivating should be excluded.

If the petitioner's contention is right in legal principle, the orders of the primary and appellate authorities would clearly be unsustainable. The question therefore is what is the appropriate interpretation of Sec.82 of the Act. Sec.82 of the Act in terms enacts that leases of agricultural land belonging to or given or endowed for the purpose of any institution or endowment, subsisting on the date of commencement of the Act shall, notwithstanding anything in any other law for the time being in force, held by a person who is not a landless poor person, stand cancelled. Sub-Section.2 of Sec.82 enacts that in respect of leases of agricultural lands held by landless poor person for not less than six years continuously, such person shall have the right to purchase such lands for a consideration of 75% of the prevailing market value of similarly situated lands at the time of purchase and that such consideration could be paid in four equal instalments in the manner prescribed. Such sale may be effected otherwise than by tender-cum-public auction. The explanation to sub-section.2 of Sec.82 of the Act defines the expression "landless poor person" as:

> " a person whose total extent of land held by him either as owner or as cultivating tenant or as both does not exceed 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five acres) of dry land and whose monthly income other than from such lands does not exceed two hundred and fifty rupees per mensum or three thousand rupees per annum. For the purpose of computing the extent of land 0.404686 hectares (one acre) of wetland shall be equal to 0.809372 hectares(two acres of dry land)"

On a true fair and construction of the explanation to Sec.82(2) of the Act it is clear that legislature intended to confer on persons in cultivation of agricultural lands of a

religious or charitable institution governed by the provisions of the Act, who satisfy the prescribed economic criteria, endowments lands. The economic status of the person is specified to be holding of a total extent of land either as an owner or cultivating tenant or both in extents specified in the provision. There is nothing in the language which permits an interpretation that lands which an applicant is in possession as a cultivating tenant of the endowment or charitable institution itself should be excluded. To accept the petitioner's interpretation would amount to carving out further exceptions to the legislative provision by interpretative gloss a course of action not that is impermissible.

For the aforesaid reasons while rejecting the interpretation urged of the provision of Sec.82, this Court finds no infirmity in the determination that the petitioner is not a landless poor person, by the primary and appellate authorities under the provision of the Act.

The grievance of the petitioner in this writ petition is against the public auction notice issued by the 5th respondent for granting lease of the 5th respondent-Devastanam's lands. As the petitioner is not a landless poor person and as his tenancy should determined by the legislative declaration and by a efflux of the lease period, the petitioner cannot legitimately resist the tender-public auction notification issued by the 5th respondent. If the petitioner wants to be a lessee of the lands of the 5th respondent, the only and exclusive course open to him is to participate at the tender-cum-public auction and succeed as a bidder thereat.

There are no merits. The writ petition is dismissed after hearing the learned Government Pleader for Endowments. No order as to costs.

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GODA RAGHURAM,J

19th JUNE 2006

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